

ORIGINAL

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PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

05-660

United States District Court	District	DELAWARE
Name (under which you were convicted):	TYRONE PRINGIE	
Place of Confinement:	Prisoner No.:	483541
Petitioner (include the name under which you were convicted)	TYRONE PRINGLE v. THOMAS CARROLL, WARDEN	
The Attorney General of the State of	MS. JANE BRADY	SEP - 8 2005
PETITION		U.S. DISTRICT COURT DISTRICT OF DELAWARE

1. (a) Name and location of court that entered the judgment of conviction you are challenging: BD
SUPERIOR COURT, NEW CASTLE COUNTY, 500 KING Receipt #
140545
STREET, WILMINGTON, DELAWARE 19801.
- (b) Criminal docket or case number (if you know): 33-02-3049
2. (a) Date of the judgment of conviction (if you know): August 24, 2005
- (b) Date of sentencing: N/A
3. Length of sentence: N/A
4. In this case, were you convicted on more than one count or of more than one crime? Yes No
5. Identify all crimes of which you were convicted and sentenced in this case: 1). POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY; 2). BURGLARY FIRST DEGREE; 3). RESISTING ARREST; 4). CRIMINAL IMPERSONATION; AND 5). THEFT.
6. (a) What was your plea? (Check one)

(1) Not guilty <input checked="" type="checkbox"/>	(3) Nolo contendere (no contest) <input type="checkbox"/>
(2) Guilty <input type="checkbox"/>	(4) Insanity plea <input type="checkbox"/>

 (b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? PLEADED
guilty ON JANUARY 20, 2005; But withdrew
PLEA ON APRIL 1, 2005.

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes No

8. Did you appeal from the judgment of conviction?

Yes No

9. If you did appeal, answer the following:

(a) Name of court: N/A

(b) Docket or case number (if you know): N/A

(c) Result: N/A

(d) Date of result (if you know): N/A

(e) Citation to the case (if you know): N/A

(f) Grounds raised: N/A

(g) Did you seek further review by a higher state court? Yes No

If yes, answer the following:

(1) Name of court: N/A

(2) Docket or case number (if you know): N/A

(3) Result: N/A

(4) Date of result (if you know): N/A

(5) Citation to the case (if you know): N/A

(6) Grounds raised: N/A

(h) Did you file a petition for certiorari in the United States Supreme Court? Yes No

If yes, answer the following:

(1) Docket or case number (if you know): N/A

(2) Result: N/A

(3) Date of result (if you know): N/A

(4) Citation to the case (if you know): N/A

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: N/A

(2) Docket or case number (if you know): N/A

(3) Date of filing (if you know): N/A

(4) Nature of the proceeding: N/A

(5) Grounds raised: N/A

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes No

(7) Result: N/A

(8) Date of result (if you know): N/A

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: N/A

(2) Docket or case number (if you know): N/A

(3) Date of filing (if you know): N/A

(4) Nature of the proceeding: N/A

(5) Grounds raised: N/A

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes No

(7) Result: N/A

(8) Date of result (if you know): N/A

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: N/A

(2) Docket or case number (if you know): N/A

(3) Date of filing (if you know): N/A

(4) Nature of the proceeding: N/A

(5) Grounds raised: N/A

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes No

(7) Result: N/A

(8) Date of result (if you know): N/A

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes No

(2) Second petition: Yes No

(3) Third petition: Yes No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

PETITIONER did NOT RECEIVE ANY RESPONSE to his two HABEAS CORPUS PETITIONS FILED IN THE STATE COURT. TIME ELAPSE PREVENTED APPEAL to HIGHEST COURT.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: THAT THE SUPERIOR COURT OF THE STATE OF DELAWARE violated PETITIONER'S due PROCESS Rights.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

THAT THE PETITIONER, TYRONE PRINGLE, WAS INITIALLY A FEDERAL PRISONER, NUMBER 04529-015, UNTIL A DETAINER WAS LODGED AGAINST THE PETITIONER BY THE STATE OF DELAWARE. THE PETITIONER WAIVED EXTRADITION AND AGREED TO RETURN TO DELAWARE WITH THE PROMISE THAT PETITIONER'S CASE WOULD BE ADJUDICATED (HEARD AND DECIDED) WITHIN 180 DAYS. THIS DID NOT HAPPEN.

(b) If you did not exhaust your state remedies on Ground One, explain why: THE PETITIONER FILED HIS FIRST HABEAS CORPUS PETITION ON MAY 15, 2005, THE SUPERIOR COURT DID NOT RESPOND / DECLINED TO ACCEPT JURISDICTION, THAT THE COURT / STATE BREACHED AGREEMENT.

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: THE COURT FAILED TO ACCEPT JURISDICTION OVER PETITIONER'S HABEAS PETITION. THUS, DENYING PETITIONER THE RIGHT TO AN APPEAL.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: HABEAS CORPUS

Name and location of the court where the motion or petition was filed: SUPERIOR COURT
NEW CASTLE COUNTY, 500 KING STREET, WILMINGTON, DELAWARE 19801.

Docket or case number (if you know): N/ADate of the court's decision: N/A NO RESPONSEResult (attach a copy of the court's opinion or order, if available): N/A

(3) Did you receive a hearing on your motion or petition?

Yes No

(4) Did you appeal from the denial of your motion or petition?

Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: N/ADocket or case number (if you know): N/ADate of the court's decision: N/AResult (attach a copy of the court's opinion or order, if available): N/A(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: THE COURT DID NOT RESPOND TO HABEAS CORPUS PETITION. THEREFORE, THE PETITIONER COULD NOT RAISE THE ISSUES, OR FILE A NOTICE OF APPEAL TO THE HIGHEST STATE COURT, DUE TO THE (30) DAYS TIME ELAPSE(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: PETITIONER FILED A SECOND HABEAS CORPUS PETITION IN THE SUPERIOR COURT. SAME RESULTS AS STATED IN GROUND ONE.GROUND TWO: DENIAL OF THE FIFTH, AND FOURTEENTH AMENDMENTS TO U.S. CONSTITUTION.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

THAT THE PETITIONER WAS TRIED AND CONVICTED ON AUGUST 24, 2005, IN THE SUPERIOR COURT, NCC. WHEN IN FACT, THE COURT DID NOT HAVE JURISDICTION OVER PETITIONER, BECAUSE OF BREACH OF AGREEMENT, AND THE 180 DAYS ELAPSED.

(b) If you did not exhaust your state remedies on Ground Two, explain why: NO RESPONSE
FROM THE SUPERIOR COURT. THE FILING OF SECOND
PETITION WAS PETITIONER'S URGENT AND ZEALOUS
ATTEMPT TO EXHAUST STATE REMEDIES.

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: NO RESPONSE
FROM THE SUPERIOR COURT. DUE TO TIME ELAPSE
STATUTE OF LIMITATION FOR AN APPEAL EXPIRED.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(3) Did you receive a hearing on your motion or petition?

Yes No

(4) Did you appeal from the denial of your motion or petition?

Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: N/A

GROUND THREE: VIOLATION OF EIGHTH AND FOURTEENTH AMENDMENT, TO THE CONSTITUTION OF THE UNITED STATES.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

THAT THE PETITIONER'S CONVICTION OF August 24, 2005 BY THE SUPERIOR COURT OF THE STATE OF DELAWARE, WHO LACKED JURISDICTION TO CONVICT PETITIONER, CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT, INJUST IMPRISONMENT, VINDICTIVE PROSECUTION AND JUDICIAL MISCONDUCT, WHICH ARE DENIED FROM THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

(b) If you did not exhaust your state remedies on Ground Three, explain why: NO RESPONSE TO PETITIONER'S HABEAS PETITION.

(c) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: N/A

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(3) Did you receive a hearing on your motion or petition?

Yes No

(4) Did you appeal from the denial of your motion or petition?

Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: N/A

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: _____

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. _____

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes No

18. **TIMELINESS OF PETITION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

(continued...)

Therefore, petitioner asks that the Court grant the following relief: _____

or any other relief to which petitioner may be entitled.

Tyrome Pringle, Pro-se

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on SEPTEMBER 6, 2005 (month, date, year).

Executed (signed) on SEPT. 6, 2005 (date).

Tyrome Pringle

Signature of Petitioner

*(...continued)

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
- (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
- (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. _____

IN FORMA PAUPERIS DECLARATION

[Insert appropriate court]

* * * * *

I/M Tyrone Pringle
SBI# 483541 UNIT P/T

DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD

SMYRNA, DELAWARE 19977



To: Clerk of the Court
United States District Court
844 N. King, St., Lock Box 18
Wilmington, Delaware
19801

